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Constitutional Law--Equal Protection Clause--Designation of Race on Ballot Struck Down

Laurence W. Grause
University of Kentucky

Recent Cases

CONSTITUTIONAL LAW—EQUAL PROTECTION CLAUSE—DESIGNATION OF RACE ON BALLOT STRUCK DOWN.—A Louisiana statute[1] provided that in all primary, general or special elections, the nomination papers and ballots shall indicate the race of candidates for elective office. Appellants, Negro citizens of East Baton Rouge, Louisiana, were candidates in their parish school board election. In advance of the election, both filed suit to enjoin the Secretary of State of Louisiana from enforcing the statute on the grounds that it was violative of their rights under the equal protection and due process clauses of the fourteenth amendment as well as their rights under the fifteenth amendment. A United States district judge denied the motion for a temporary restraining order and a three-judge court was convened which denied the injunction. The case was brought on direct appeal to the Supreme Court. *Held*: Reversed. Speaking unanimously through the voice of Justice Clark, the Court struck down the Louisiana statute as being in violation of the fourteenth amendment's equal protection clause.[2] *Anderson v. Martin*, 375 U.S. 399 (1964).

Immediately the question arises as to whether *Anderson v. Martin*[3] extended the traditional application of the equal protection clause. It is submitted that it did not. Customarily, the clause is invoked where the complaining party receives state-sponsored differential treatment. Here such treatment was accorded the appellants. For the state, in advertising the candidates' race at the most crucial point in an election, implicitly impressed on each voter that there was, in fact, a racial difference in the candidates. The legislature so acted with full knowledge that white voters predominated. The result was calculated and inevitable. The Court, therefore, had no other recourse than to announce that "[r]ace is the factor upon which the statute operates and its involvement promotes the ultimate discrimination which is sufficient to make it invalid."[4]

It is well established that a state has the right to require and subsequently disclose information as a condition of exercising certain privileges. However, this state right is not without limits. For example,

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[1] La. Rev. Stat. § 18:1174.1 (Supp. 1960).

[2] "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

[3] 375 U.S. 399 (1964).

[4] *Id.* at 404.

a significant limitation is that a state must have a *legitimate* interest in securing the information.[5] Clearly, if the information secured and subsequently disclosed has no relevance concerning fitness to exercise the right or privilege involved, it follows that the state has no legitimate interest in procuring the information. Since, by all reasonable standards, race has no relation whatsoever to fitness to hold public office, the Court was justified in concluding: ". . . [W]e see no relevance in the State pointing up the race of the candidate as bearing upon his qualifications for office. Indeed, this factor in itself 'underscores the purely racial character and purpose' of the statute."[6]

Important to note is the era during which the race designating statute was enacted. For it graphically demonstrates the Court's correctness in declaring the statute to be purely racial in character. The 1960 regular session of the Louisiana legislature felt a strong need to revise the ballot. This revision took the form of a single addition—the candidates' race. Doubtless, it is more than sheer coincidence that 1960—the year in which the measure was passed—was a time replete with sit-in demonstrations and public school integration.[7] Feelings were running high against the Negro. The white populace felt an urgent need to halt the inroads of the black race.

Nevertheless, despite the indicting circumstances surrounding the statute, it was cleverly clothed in a cloak of constitutionality. It neither denied the Negro the right to run for office, nor did it require that only Negroes have their race designated on the ballot. The provision applied equally to all candidates. Fortunately, these ostensible marks of non-discrimination were not determinative.

Courts determine the purpose[8] and the substance and effect of any statute and this is particularly true in racial discrimination cases. Granted, the Negro was not stripped of the right to run for office, but of what value is one's right to run for office unless the state guarantees an equal opportunity to win? Furthermore, the same treatment to all persons does not necessarily reconcile a statute with the fourteenth amendment. "Equal protection of the laws is not achieved through indiscriminate imposition of inequalities.[9]

These earlier pronouncements apparently were controlling in the instant case and prompted the Court to proclaim ". . . that which cannot be done by express statutory prohibition cannot be done by

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[5] Nelson v. County of Los Angeles, 362 U.S. 1 (1960).
[6] Anderson v. Martin, *supra* note 3, at 403.
[7] Wollett, *Race Relations*, 21 La. L. Rev. 85 (1960).
[8] Purpose is defined as "A result intelligently foreseen and offering the most obvious motive for an act that will bring it about . . ." Miller v. City of Milwaukee, 272 U.S. 713, 715 (1927).
[9] Shelley v. Kraemer, 334 U.S. 1, 22 (1948).

indirection. Therefore, we view the alleged equality as superficial."[10]

Notable also is that the case's disposition completely harmonizes with the principle which has grown out of broad extensions of the landmark *Brown v. Board of Education*[11] decision. That principle being that the fourteenth amendment ". . . requires a state, in *all* of its official actions, to be indifferent to racial considerations. . . ."[12] The invalidated Louisiana ordinance patently circumvented this principle and the Court duly responded.

The Court is to be commended for not seeking refuge behind the clever framework in which the statute was constructed. Instead, it opened itself to a possible bitter attack by recognizing that the state, in singling out the candidates' race, was irresponsibly abusing the ballot to arouse the passion of bigotry; by recognizing that the state, in exploiting one of its most treasured functions, was subtly encouraging the contemptible practice of block-voting; by unequivocally declaring that "private attitudes and pressures" toward the Negro at the time of its enactment could only result in that "repressive effect" which "was brought to bear only after the exercise of governmental power."[13]

Laurence W. Grause

EVIDENCE—LIE DETECTOR RESULTS—EFFECT OF PRIOR STIPULATION ON ADMISSIBILITY.— The defendant signed a waiver which recited that he consented to submit to a lie-detector test and agreed the results could be introduced as evidence against him. The test was to be the standard polygraph test conducted by a qualified polygraph operator. He knew the contents of the waiver as it was read to him but the evidence showed that he was illiterate and able to write only his name. At the time of the waiver he did not have counsel, but he was apprised of his rights. On trial defendant objected to the admissibility of the lie-detector results. He was overruled and convicted. *Held*: Reversed. The results should have been excluded, notwithstanding the waiver. Lie-detector results have not attained a sufficient degree of scientific trustworthiness, and therefore the written agreement was not binding. *Conley v. Commonwealth*, 382 S.W.2d 865 (Ky. 1964).

The results of lie-detector tests are inadmissible in evidence, at

[10] Anderson v. Martin, *supra* note 3, at 404.
[11] 347 U.S. 483 (1954).
[12] Wollett, *supra* note 7, at 92.
[13] Anderson v. Martin, *supra* note 3, at 403.